

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60919; File No. SR-CBOE-2009-079]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Penny Pilot Program

November 3, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 28, 2009, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to amend proposes to amend its rules relating to the Penny Pilot Program. The text of the rule proposal is available on the Exchange's Web site (<http://www.cboe.org/legal>), at the Exchange's Office of the Secretary and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change**1. Purpose**

CBOE proposes to identify the 75 option classes that will be added to the Penny Pilot Program beginning on

November 2, 2009. CBOE recently received approval to extend and expand the Penny Pilot Program through December 31, 2010.³ As described in its filing, the Pilot Program will be expanded by adding 300 option classes, in groups of 75 classes each quarter beginning on the following dates: November 2, 2009, February 1, 2010, May 3, 2010, and August 2, 2010.⁴ The option classes will be identified based on national average daily volume in the six calendar months preceding their addition to the Pilot Program using data compiled by The Options Clearing Corporation, except that the month immediately preceding their addition to the Pilot Program would not be utilized for purposes of the six month analysis.

The following 75 option classes will be added to the Pilot Program beginning on November 2, 2009:

Symbol	Company name
ABX	Barrick Gold Corp
AXP	American Express Co
AUY	Yamana Gold Inc
BA	Boeing Co/The
BBT	BB&T Corp
BBY	Best Buy Co Inc
BP	BP PLC
CHK	Chesapeake Energy Corp
CIT	CIT Group Inc
COF	Capital One Financial Corp
CVX	Chevron Corp
DE	Deere & Co
DOW	Dow Chemical Co/The
DRYS	DryShips Inc
EFA	iShares MSCI EAFE Index Fund
ETFC	E*Trade Financial Corp
EWZ	iShares MSCI Brazil Index Fund
FAS	Direxion Daily Financial Bull 3X Shares
FAZ	Direxion Daily Financial Bear 3X Shares
FITB	Fifth Third Bancorp
FSLR	First Solar Inc
FXI	iShares FTSE/Xinhua China 25 Index Fund
GDX	Market Vectors—Gold Miners ETF
GG	Goldcorp Inc
GLD	SPDR Gold Trust
HGSI	Human Genome Sciences Inc
HIG	Hartford Financial Services Group Inc
HPQ	Hewlett-Packard Co
IBM	International Business Machines Corp

³ See Securities Exchange Act Release No. 60864 (October 22, 2009), granting immediate effectiveness to SR-CBOE-2009-76.

⁴ The classes to be added are among the most actively-traded, multiply-listed option classes that are not currently in the Pilot Program, excluding option classes with high premiums. An option class would be designated as "high premium" if, at the time of selection, the underlying security was priced at \$200 per share or above, or the underlying index level was at 200 or above.

Symbol	Company name
IYR	iShares Dow Jones US Real Estate Index Fund
JNJ	Johnson & Johnson
JNPR	Juniper Networks Inc
KO	Coca-Cola Co/The
LVS	Las Vegas Sands Corp
MCD	McDonald's Corp
MGM	MGM Mirage
MON	Monsanto Co
MOS	Mosaic Co/The
MRK	Merck & Co Inc/NJ
MS	Morgan Stanley
NLY	Annaly Capital Management Inc
NOK	Nokia OYJ
NVDA	Nvidia Corp
ORCL	Oracle Corp
PALM	Palm Inc
PBR	Petroleo Brasileiro SA
PG	Procter & Gamble Co/The
POT	Potash Corp of Saskatchewan Inc
RF	Regions Financial Corp
RIG	Transocean Ltd
RMBS	Rambus Inc
S	Sprint Nextel Corp
SDS	ProShares UltraShort S&P500
SKF	ProShares UltraShort Financials
SLB	Schlumberger Ltd
SLV	iShares Silver Trust
SRS	ProShares UltraShort Real Estate
SSO	ProShares Ultra S&P500
STI	SunTrust Banks Inc
SVNT	Savient Pharmaceuticals Inc
TBT	ProShares UltraShort 20+ Year Treasury
UNG	United States Natural Gas Fund LP
UNH	UnitedHealth Group Inc
UPS	United Parcel Service Inc
USB	US Bancorp
USO	United States Oil Fund LP
UYG	ProShares Ultra Financials
V	Visa Inc
WFC	Wells Fargo & Co
WYNN	Wynn Resorts Ltd
X	United States Steel Corp
XHB	SPDR S&P Homebuilders ETF
XLI	Industrial Select Sector SPDR Fund
XLU	Utilities Select Sector SPDR Fund
XRT	SPDR S&P Retail ETF

The minimum increments for all classes in the Penny Pilot, except for the QQQs, continue to be \$0.01 for all option series below \$3 (including LEAPS), and \$0.05 for all option series \$3 and above (including LEAPS). For QQQs, the minimum increment remains \$0.01 for all option series.

2. Statutory Basis

The Exchange believes the rule proposal is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations under the Act applicable to a national

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

securities exchange and, in particular, the requirements of Section 6(b) of the Act.⁵ Specifically, the Exchange believes that the proposed rule change is consistent with the Section 6(b)(5) Act⁶ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest by identifying the option classes to be added to the Pilot Program in a manner consistent with CBOE's prior rule filing SR-CBOE-2009-76 to extend and expand the Pilot Program.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change is filed for immediate effectiveness pursuant to Section 19(b)(3)(A)⁷ of the Securities Exchange Act of 1934 and Rule 19b-4(f)(1)⁸ thereunder as it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2009-079 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2009-079. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2009-079 and should be submitted on or before November 30, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E9-26883 Filed 11-6-09; 8:45 am]

BILLING CODE 8011-01-P

⁹ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Release No. 34-60916; File No. SR-NYSEAmex-2009-78]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Amex LLC Amending Exchange Rule 62 to Support Quoting and Trading in a Minimum Price Variation Below \$.01 for Securities Traded on the Exchange for Orders or Interest Priced Below \$1.00 Per Share

November 3, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 27, 2009, NYSE Amex LLC ("Exchange" or "NYSE Amex") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. NYSE Amex has designated the proposed rule change as constituting a rule change under Rule 19b-4(f)(6) under the Act,³ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange Rule 62 (Variations) to support quoting and trading in a minimum price variation below \$.01 for securities traded on the Exchange for orders or interest priced below a [sic] \$1.00 per share. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and www.nyse.com.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(1).